

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI

Larry Lee Smith # 201097610)
(full name) (Register No.))

12-0357-CV-W-GAF-P. Case No. 12-0357-CV-W-GAF-P.

Plaintiff(s).)

v.)

JAMES F. KAMATZAR)

(Full name))

MCGRAW Peggy STEVENS)

JEFFREY A. Gedbaw and Clint French)

Defendant(s).)

Defendants are sued in their (check one):

Individual Capacity

Official Capacity

Both

COMPLAINT UNDER THE CIVIL RIGHTS ACT OF 42 U.S.C. § 1983

I. Place of present confinement of plaintiff(s): JACKSON COUNTY DETENTION CENTER
1300 CHERRY STREET, KANSAS CITY, MO 64106

II. Parties to this civil action:

Please give your commitment name and any another name(s) you have used while incarcerated.

A. Plaintiff Larry Lee Smith Register No. 201097610
Address JACKSON COUNTY DETENTION CENTER 1300 CHERRY STREET,
KANSAS CITY, MO 64106

B. Defendant JAMES F. KAMATZAR
415 EAST 12TH STREET FLOOR 7N
Is employed as PROSECUTING ATTORNEY FOR THE COUNTY OF JACKSON, MISSOURI
KANSAS CITY, MISSOURI 64106

For additional plaintiffs or defendants, provide above information in same format on a separate page.

Defendant MCGRAW Peggy STEVENS
JACKSON COUNTY COURTHOUSE, 415 EAST 12TH STREET

Is employed as JUDGE FOR JACKSON COUNTY COURTHOUSE,
KANSAS CITY, MISSOURI 64106 1

Defendant JEFFREY A. GEDBOW
DAIS TOWER 20TH FLOOR - 324 EAST 11TH STREET

Is employed as MISSOURI STATE PUBLIC DEFENDER SYSTEM TRAIL DIVISION.

Kansas City Missouri 64106-2417

Defendant Clint French
1125 Locust

IS EMPLOYED AS DETECTIVE OFFICER FOR KANSAS CITY MISSOURI POLICE DEPARTMENT,
KANSAS CITY, MO 64106

Defendant Robert Fields

6633 Troost Avenue

IS EMPLOYED AS CITY POLICE OFFICER FOR KANSAS CITY POLICE CRIME LABORATORY
KANSAS CITY, MO 64131

Defendant Nick Carroll

6633 Troost Avenue

IS EMPLOYED AS POLICE OFFICER FOR KANSAS CITY POLICE CRIME LABORATORY
KANSAS CITY, MO 64131

Defendant Nathan B. Simecek

1125 Locust

IS EMPLOYED AS DETECTIVE OFFICER FOR KANSAS CITY MISSOURI POLICE DEPARTMENT,
KANSAS CITY, MO 64106

Defendant Brian Anderson

1125 Locust

IS EMPLOYED AS POLICE OFFICER FOR KANSAS CITY MISSOURI POLICE DEPARTMENT
KANSAS CITY, MO 64106

Defendant Thomas M. Burchfield

1125 Locust

IS EMPLOYED AS POLICE OFFICER FOR KANSAS CITY MISSOURI POLICE DEPARTMENT
KANSAS CITY, MO 64106

Defendant Kenneth M. Moore

1125 Locust

IS EMPLOYED AS POLICE OFFICER FOR KANSAS CITY MISSOURI POLICE DEPARTMENT
KANSAS CITY, MO 64106

Defendant Lisa Witcher

1000 E. 44th Street

IS EMPLOYED AS DOCTOR FOR STATE OF MISSOURI DEPARTMENT OF MENTAL HEALTH
KANSAS CITY, MO 64108-2776

Defendant Kelli Lawson

Saint Luke's Hospital 4401 Wornall Road

IS EMPLOYED AS NURSE FOR SAINT LUKE'S HOSPITAL

Kansas City Mo 64111,

Defendant Social Security Administration office staff worker
601 East Twelfth Street

IS employed as staff worker for Social Security Administration

Kansas City Mo, 64106-2817,

Defendant Sheriff Officer

Jackson County Criminal Justice Center 1315 Locust,

IS employed as Sheriff's Officer for Kansas City Missouri Register sexual offense

Kansas City Mo 64106,

Defendant Ken Conlee

1300 Cherry Street,

IS employed as Director for Jackson County Detention Center,

Kansas City Mo 64106,

Defendant Sydney Wallace

415 East 12th Street R100 R7M

IS employed as Assistant Prosecuting Attorney for Jackson County Courthouse,

Kansas City, Missouri 64106,

III.	Do your claims involve medical treatment?	Yes <input checked="" type="checkbox"/>	No _____
IV.	Do you request a jury trial?	Yes <input checked="" type="checkbox"/>	No _____
V.	Do you request money damages?	Yes <input checked="" type="checkbox"/>	No _____
	State the amount claimed?	\$ <u>80,000.000</u> (actual/punitive)	
VI.	Are the wrongs alleged in your complaint continuing to occur?	Yes <input checked="" type="checkbox"/>	No _____
VII.	Grievance procedures:		
	A. Does your institution have an administrative or grievance procedure?	Yes <input checked="" type="checkbox"/>	No _____
	B. Have the claims in this case been presented through an administrative or grievance procedure within the institution?	Yes <input checked="" type="checkbox"/>	No _____
	C. If a grievance was filed, state the date your claims were presented, how they were presented, and the result of that procedure. (Attach a copy of the final result.)	on <u>FEbruary 17, 2011</u> <u>Smith Larry L, who was involuntarily committed to the Fulton State Hospital by Circuit Court of Jackson County, Missouri after being found incompetent to stand trial on charges of forcible Rape and Armed Criminal Actions, case under Civil Actions,</u>	
	D. If you have not filed a grievance, state the reasons.	<u>on DECEMBER 7, 2010 I was transferred to Fulton State Hospital from Judge McGraw Pegg Stevens unlawfully basis conviction sentencing incompetency to stand trial</u> <u>Criminal Negligence proceedings MARCH 17, 2011 Execution actions with</u> <u>PRJUDICE,</u>	
VIII.	Previous civil actions:		
	A. Have you begun other cases in state or federal courts dealing with the same facts involved in this case?	Yes <input checked="" type="checkbox"/>	No _____
	B. Have you begun other cases in state or federal courts relating to the conditions of or treatment while incarcerated?	Yes <input checked="" type="checkbox"/>	No _____
	C. If your answer is "Yes," to either of the above questions, provide the following information for each case.		
	(1) Style: <u>Larry Lee Smith</u> <u>(Plaintiff)</u>	<u>Sydney Wallace</u> <u>(Defendant)</u>	
	(2) Date filed: <u>July 6, 2010</u>		

(3) Court where filed: CIRCUIT COURT OF JACKSON COUNTY

(4) Case Number and citation: CASE NO. 10/6-CR03095

(5) Basic claim made: MENTAL EXAMINATION

(6) Date of disposition: MARCH 17, 2011

(7) Disposition: DISPOSITION PENDING ON APPEAL
(Pending) (on appeal) (resolved)

(8) If resolved, state whether for: DISPOSITION PENDING ON APPEAL
(Plaintiff or Defendant)

For additional cases, provide the above information in the same format on a separate page.

IX. Statement of claim: FALSE IMPRISONMENT

A. State here as briefly as possible the facts of your claim. Describe how each named defendant is involved. Include the names of other persons involved, dates and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

ON OR ABOUT JULY 2, 2010 THE KANSAS CITY MISSOURI POLICE DEPARTMENT POLICE OFFICER'S ALLEGED FALSE ARREST UPON ME WITH PREJUDICE THROUGH MUNICIPALITY'S BASIS IN INFORMATION THROUGH PREJUDICE INVESTIGATION IN THE CITY JAIL UPON MY BODY ALLEGED VIOLATION OF MY RIGHT BY COLLECTING MY HEAD HAIR STANDARDS AND PUBLIC HAIR STANDARDS AND BUCIAL SWAB AND COLLECTING ALL MY CLOTHES FROM MY BODY IN THE CITY JAIL FOR DNA TESTING WITHOUT A SEARCH WARRANT OR MY CONSENT IN JULY 2, 2010 IN THE CITY JAIL, AND ON JULY 3, 2010 DEFECTIVE OFFICER CLINT FRENCH CAMPED TO THE CITY JAIL ON JULY 3, 2010 WITH A SEARCH WARRANT ORDER TO RETURN (COLLECT) MY HEAD HAIR STANDARDS AND PUBLIC HAIR STANDARDS AND BUCIAL SWAB, WITHIN VIOLATION OF THE LAW OF THE STATE OF MISSOURI, AND WITH THE INSUFFICIENT WARRANT FOR MY JULY 3, 2010 ARREST WITH COMMITTED ME WITHIN THE JURISDICTION OF THE CIRCUIT COURT OF JACKSON COUNTY WITHIN VIOLATION OF LAW OF THE STATE OF MISSOURI, WITH THE PROSECUTING ATTORNEY SYDNEY WALLACE JUNIOR 2010 BASIS INFORMATION CHARGES UPON ME WITH ONE COUNT OF FORCIBLE REPEAL COUNT TWO OF ARMED CRIMINAL ACTION, ALLEGED THROUGH INSUFFICIENT INDICTMENT AND INFORMATION DUE PROCESS OF LAW DOES NOT IN ITSELF REQUIRE AN INFORMATION OR INDICTMENT BY A GRAND JURY AS A NECESSARY STEP IN THE PROSECUTION OF A PERSON OF A CRIME, THE STATE IS HELD TO PROVE THE ELEMENTS OF THE OFFENSE IT CHARGED, NOT THE ONE IT MIGHT HAVE ENTHUSED OR IMPOSED

B. State briefly your legal theory or cite appropriate authority: body in July 3, 2010 in the city jail, because in July 2, 2010 THE POLICE OFFICERS FROM CRIME SCENE HAD CAMPED AND COLLECTED ALL OF MY CLOTHES WITH THE COLLECTING OF MY HEAD HAIR STANDARDS AND PUBLIC HAIR STANDARDS AND BUCIAL SWAB, WITHIN VIOLATION OF THE LAW OF THE STATE OF MISSOURI, AND WITH THE INSUFFICIENT WARRANT FOR MY JULY 3, 2010 ARREST WITH COMMITTED ME WITHIN THE JURISDICTION OF THE CIRCUIT COURT OF JACKSON COUNTY WITHIN VIOLATION OF LAW OF THE STATE OF MISSOURI, WITH THE PROSECUTING ATTORNEY SYDNEY WALLACE JUNIOR 2010 BASIS INFORMATION CHARGES UPON ME WITH ONE COUNT OF FORCIBLE REPEAL COUNT TWO OF ARMED CRIMINAL ACTION, ALLEGED THROUGH INSUFFICIENT INDICTMENT AND INFORMATION DUE PROCESS OF LAW DOES NOT IN ITSELF REQUIRE AN INFORMATION OR INDICTMENT BY A GRAND JURY AS A NECESSARY STEP IN THE PROSECUTION OF A PERSON OF A CRIME, THE STATE IS HELD TO PROVE THE ELEMENTS OF THE OFFENSE IT CHARGED, NOT THE ONE IT MIGHT HAVE ENTHUSED OR IMPOSED

prohibits an offense which may be committed in different ways, a charge of commission of the prohibited offense by doing any of the acts by which it may be committed will support charge, indictment or information for manslaughter must contain all allegations essential and necessary to a charge of murder except the elements of deliberation, premeditation and malice.

Due process requires that a defendant may not be convicted of an offense not charged in information or indictment.

Information, which set forth the essential facts constituting offense of first-degree robbery by means of a dangerous and deadly weapon, was sufficient in form and substance, although written in medieval language and archaic form.

Filing an amended information on the day of trial adding two different offenses to the original charges was impermissible and constituted plain error, indictment and information

Indictment charging that accused made an assault with his hands and fists on the head and body of deceased and that he did strike, knock, beat and wound deceased giving her one mortal blow of which she died, and omitting elements of first and second degree murder sufficiently charged manslaughter, providing for the revocation of a license to practice medicine by the state board of health, did not deny due process, under Artman, before Board of Healing Arts may revoke or suspend physician's medical license on grounds of general incompetence following physician's failure of reexamination, due process requires contested case hearing.

Full panoply of due process is not required at probable cause stage of proceeding before Board of Healing Arts to revoke or suspend physician's medical license on grounds of general incompetence.

The provisions of witnesses authorizing notary to compel

attendance of witness to make deposition did not deny due process. The due process provisions of the state and federal constitutions are for the protection of life, liberty, and property as against state governmental action through executive, legislative, judicial or administrative authority and are not applicable to acts of individuals affecting rights of other individuals.

Communication WORKERS of AMERICA,

DUE PROCESS REQUIRES ONLY THAT EVERY CITIZEN hold life, liberty, and property under protection of general law, and have opportunity to contest each step against him; "DUE PROCESS of law."

Information charging manslaughter was sufficient where it contained all necessary elements to apprise accused of nature and character of charge against him and was in conformity with statute defining manslaughter.

Indictment charging that accused "feloniously, wilfully and unlawfully" killed deceased by stabbing sufficiently charged manslaughter.

Indictment of TRUCK DRIVER who ran over and killed workman in street was sufficient to charge manslaughter as to both form and substance. Neither Supreme Court rule conferring power on committee to investigate professional misconduct, nor institution of disbarment proceedings was violative of Const. 1875, Art. 12, § 19, liability for damage caused by noncompliance could be based.

Indictment for manslaughter in killing by use of trap gun was sufficient. Though an information is defective as one charging MURDER in the first degree, by omitting in the closing part a charge that it was mad upon the oath of the prosecuting officer, it is sufficient to charge manslaughter.

AN INDICTMENT based on R.S. 1871, § 1238, was insufficient, where

it did not charge that the killing was done without a design to effect death, nor that it was done while the doer of the act was engaged in the perpetration or attempt to perpetrate a crime or a misdemeanor not amounting to a felony. It was not sufficient that these facts might be inferred the allegations made,

Licensing scheme for armed security guards which automatically excluded applicants with only one hand based on assumption that they could not perform full and unrestricted duties required of police officers violated due process clause,

Trial Court's comments while discussing his Rendition of adjudication did not shift burden of proof to juvenile to prove his innocence: court was simply reciting factors which played a role in his decision and was evaluating testimony of each witness and showing how that testimony affected result reached, in juvenile proceeding in which petition alleges as basis for jurisdiction that juvenile committed act which would constitute crime if committed by adult, due process requires proof of accusation beyond reasonable doubt.

An indictment against a druggist for manslaughter in carelessly filling a prescription, which fails to allege that defendant delivered the drug to any one he administered to decedent and which on its face is as consistent with innocence as guilt, is insufficient.

Due course of law assures to every person his right to a day in court, and of a notice of a hearing and an opportunity to defend, and one who is a party to the record by virtue of his having become a surety in a cost bond voluntarily submits himself to such judgment as shall be given against prosecuting attorney Sydney Wallace office for costs subject to his right to move for a retrial.

Works, "in contravention of the provisions of this

ARTICLE: IN SECTION OF ST. LOUIS CIVIL SERVICE CHARTER AMENDMENT
enabling the city to sue an officer illegally appointing a subordinate
for money paid out in wages to the subordinate,

REFERRED to an intentional or negligent act of the
appointing officer, and hence the section did not deny "due
process of law" by creating liability without fault,

Laws 1891, p.47, § 1, known as the "Boulevard Law," which
provided that a city might establish a building line on a
boulevard to which all structures thereon should conform
there being no provision therein for proceeding to condemn
the land affected, violated this section, in order for
non-disclosure of exculpatory evidence to rise to a
constitutional violation, as affecting liability for false
imprisonment, police officer was charged with knowing all
facts that he could have obtained by due diligence before making
arrest and had duty to use all reasonable means to avoid a
mistake of identity, false imprisonment.

EVEN FULTON State Hospital's action in revoking
physician's privileges was state action, the physician
was afforded ample procedural rights to satisfy any
constitutional requirements,

THE MERE FACTS THAT RESPONDENT HAD GREATER ABILITY TO
GATHER NEWS THAN OTHERS, OR THAT ITS BUSINESS HAD BECOME
ONE OF GREAT MAGNITUDE, OR THAT CORPORATE EXISTENCE, WITHOUT
ANY RIGHTS ADDITIONAL TO WHAT IT HAD BEFORE, HAD BEEN GRANTED
IT, DID NOT GIVE THE STATE ANY RIGHT TO INTERFERE WITH ITS
FREEDOM TO CONTRACT WITH WHOM IT CHOSE, AND COMPEL IT TO FURNISH
NEWS TO RELATOR ON EQUAL TERMS WITH OTHERS.

FOUR-YEAR DELAY IN CHARGING PRISONER WITH DEATH OF FELLOW
INMATE DID NOT DEPRIVE PRISONER OF DUE PROCESS: THOUGH
CERTAIN WITNESSES WERE NO LONGER AVAILABLE, PRISONER'S

CONJECTURE that their testimony would be of DERNITAL NATURE was highly speculative, and THERE WAS NO SHOWING that delay was intentional device to gain tactical advantage OVER PRISONER,

State constitutional PROHIBITION against EX POST FACTO LAW did not prohibit application of REGULATIONS GOVERNING establishment of REIMBURSEMENT RATE FOR MEDICAID EXPENSES INCURRED BY NURSING HOME IN EFFECT AT TIME THAT REQUEST FOR MODIFICATION WAS MADE, AS OPPOSED TO APPLYING REGULATION IN EFFECT AT TIME THAT INITIAL RATE WAS ESTABLISHED.

DEPARTMENT OF SOCIAL SERVICES WAS NOT PROHIBITED BY EX POST FACTO PROVISION OF STATE CONSTITUTION (CONST, ART. I, § 13) FROM RETROACTIVELY APPLYING REGULATION RELATING TO REASONABLE COST RELATED NURSING HOME REIMBURSEMENT.

TO REVERSE EXISTING PRIORITIES AS BETWEEN SPECIAL TAX LIENS ON THE ONE HAND AND MUNICIPAL TAX SALE CERTIFICATES, CERTIFICATES OF PURCHASE AND TAX DEEDS ON THE OTHER WOULD CONSTITUTE A CLEAR VIOLATION OF VESTED RIGHTS. IN ACTION IN FEDERAL DISTRICT COURT BY THE OWNER OF TEN \$1,000 JUDGMENT BONDS ISSUED BY CITY, TO RESTRAIN CITY FROM CONSUMMATING A PROPOSED JUDGMENT BOND ISSUE, AMENDED COMPLAINT ALLEGING THAT ORDINANCE ATTEMPTED TO CREATE PRIORITY OF PAYMENT IN FAVOR OF PROPOSED ISSUE AND TO IMPAIR THE MARKETABILITY OF OWNER'S BONDS, AND THAT OWNER WOULD BE SUBJECT TO IRREPARABLE LOSS AND DEPRIVED OF HIS PROPERTY IN VIOLATION OF THIS SECTION, WAS SUBJECT TO DISMISSAL FOR FAILURE TO SHOW THAT "MATTER IN CONTROVERSY" EXCEEDED JURISDICTIONAL AMOUNT OF \$3,000.

MUNICIPAL CORPORATIONS ARE CREATURES OF THE LEGISLATURE TO SUCH AN EXTENT THAT THEY HOLD THEIR FRANCHISES OF A PUBLIC NATURE ENTIRELY SUBJECT TO LEGISLATIVE CONTROL, NO VESTED RIGHT IN THE NATURE OF A CONTRACT EXISTS IN THOSE FRANCHISES, AND IT IS COMPETENT FOR THE LEGISLATURE TO MODIFY THEM AT PLEASURE OR TAKE THEM WHOLLY AWAY. NOTICE TO ALLEGED

INCOMPETENT IN MENTALITY PROCEEDING IS ESSENTIAL TO DUE PROCESS; IN RE Moynihan A judgment of divorce which disposes of both property and marital rights is void because working a deprivation of property without due process of law, when based on substituted service which in turn was based on willfully false testimony.

PROVISIONS OF V.A.M.S., § 202, 783 et seq., AUTHORIZING COMMITMENT OF ALLEGEDLY MENTALLY ILL PERSON UPON APPLICATION AND CERTIFICATION OR UPON SUSPICION OF MENTAL ILLNESS, WITHOUT NOTICE OR HEARING PRIOR TO COMMITMENT, WERE UNCONSTITUTIONAL AS IN VIOLATION OF DUE PROCESS, NOTWITHSTANDING PROVISION FOR HEARING UPON DEMAND AFTER COMMITMENT AND NOTWITHSTANDING AVAILABILITY OF HABEAS CORPUS TO TEST VALIDITY OF COMMITMENT.

SHOWUP IDENTIFICATION PROCEDURE IN WHICH DEFENDANT WAS RETURNED, IN HANDCUFFS AND IN POLICE PATROL WAGON, TO SCENE OF BURGLARY WITHIN ONE-HALF HOUR AFTER HE HAD BEEN SEEN FLEEING APARTMENT BUILDING WAS NOT UNDULY SUGGESTIVE; POLICE OFFICERS DID NOT INTIMATE TO WITNESSES THAT DEFENDANT WAS THE RIGHT SUSPECT, NOR DID THEY PRESSURE WITNESSES TO IDENTIFY HIM.

THE PROSECUTING ATTORNEY SYDNEY WALLACE HAVE FALSE IMPRISONMENT THROUGH FULTON STATE HOSPITAL WITH ACTING UNDER COLOR OF FEDERAL LAW FOR VIOLATIONS OF FEDERALLY PROTECTED RIGHTS AND ALLEGED VIOLATIONS OF MY RIGHTS IN CONNECTION WITH MY ARREST ON JULY 2, 2010, WITH MY SUBSEQUENT INVESTIGATION, PROSECUTION WITH MY CONVICTION FOR RAPE,

X. Relief: State briefly exactly what you want the court to do for you. Make no legal arguments.

I WOULD LIKE FOR COURT TO GRANT ME \$ 80,000,000, WITH
A JURY TRIAL.

XI. Counsel:

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name. NO, ONE

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action? Yes No X

If your answer is "Yes," state the names(s) and address(es) of each lawyer contacted.

N/A

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes No X

If your answer is "Yes," state the name and address of the lawyer.

I declare under penalty of perjury that the foregoing is true and correct.

Executed (signed) this 12 day of MARCH 2012.

LARRY LEE SMITH
Signature(s) of Plaintiff(s)

RECEIVED

2012 MAR 16 PM 1:34

CLERK, U.S. DIST. COURT
WEST. DIST. OF MO
KANSAS CITY, MO

THIS MAP IS PUBLISHED AND SOLD BY
THE DEPARTMENT OF THE
INTERIOR, U. S. GOVERNMENT.

FROM: KARRY Lee SMITH #10191010
JACKSON COUNTY DETENTION CENTER
1300 Cherry Street
KANSAS CITY, MO 64106-0000

Identical
legal mail

1 D: the CLERK office of
United States District Court
400 East 9th Street
Kansas City, Mo 64106